

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

J.D. JONES BARTON,

Petitioner,

v.

PATRICK R. GLEBE,

Respondent.

No. C10-5511 RJB/KLS

REPORT AND RECOMMENDATION
Noted For: August 27, 2010

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner J.D. Jones Barton is a Washington state inmate at the Stafford Creek Corrections Center in Aberdeen, Washington. Mr. Barton filed his petition for writ of habeas corpus and the \$5.00 filing fee on July 21, 2010 (SEA 35552). On the same day, Mr. Barton filed a Motion for Leave to Proceed *In Forma Pauperis*. Dkt. 3. Because Mr. Barton has paid the filing fee, the Court should deny the application to proceed *in forma pauperis*.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).

1 On July 21, 2010, the Clerk received Mr. Barton's petition for writ of habeas corpus and
2 the \$5.00 filing fee. Dkt. 1. Because he has paid the filing fee, Mr. Barton's application to
3 proceed *in forma pauperis* is moot.

4 **CONCLUSION**

5 Because Mr. Barton has paid the filing fee, the undersigned recommends that the Court
6 deny his application to proceed *in forma pauperis* (Dkt. 3).

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8 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure
9 (Fed. R. Civ. P.), Petitioner shall have fourteen (14) days from service of this Report and
10 Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file
11 objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474
12 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed set
13 this matter for consideration on **August 27, 2010**, as noted in the caption.
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16 DATED this 3rd day of August, 2010.

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18 Karen L. Strombom
19 United States Magistrate Judge
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